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August 16, 1994

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Mr. William Caton, Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554  
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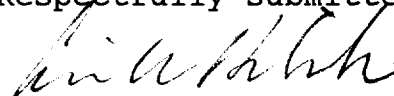
Re: Ex Parte Contact in GEN Docket No. 90-314

Dear Mr. Caton:

It has just come to our attention that when our summary of PCS reconsideration petitions was distributed to industry members on August 9, 1994, copies may also have been provided to individuals at the FCC. Accordingly, we have provided the attached copy to your office for filing in the docket as an ex parte communication.

Should any questions arise concerning this transmittal, please contact the undersigned at (202) 828-3182.

Respectfully submitted,



Eric W. DeSilva

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**SUMMARY OF PETITIONS FOR FURTHER  
RECONSIDERATION OF THE MEMORANDUM  
OPINION AND ORDER ON  
PERSONAL COMMUNICATIONS SERVICES**

GEN Docket 90-314

R. Michael Senkowski  
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August 16, 1994

## FOREWORD

On July 25, 1994, ten petitions for further reconsideration were filed in response to the FCC's Memorandum Opinion and Order on new 2 GHz Personal Communications Services ("PCS"). These petitions, and a related petition for stay, are summarized herein and arranged alphabetically by company or organization name. We have done our best to represent each commenter's positions accurately on a range of issues within one or two pages and in a consistent format. Due to space and time constraints, however, many supporting arguments have been truncated and rephrased to conserve space. Accordingly, in all cases, it is highly advisable to review the actual commenter's text. All summaries have page references to the actual commenter's text.

The filing of these petitions was noted in a release by the Commission on August 28, 1994. As of August 8, 1994, however, the petitions had not yet appeared in the Federal Register. Parties will have 15 days after publication in the Federal Register to file oppositions.

## TABLE OF CONTENTS

	<i>Page</i>
ArrayComm, Inc. and Spatial Communications, Inc. . . . .	1
Association for Maximum Service Television, Inc. . . . .	1
Association of Independent Designated Entities . . . . .	2
Cellular Telecommunications Industry Association . . . . .	2
CELSAT, Inc. . . . .	3
Cincinnati Bell Telephone Company . . . . .	4
Comcast Corporation . . . . .	4
Omnipoint Corporation, Inc. . . . .	5
Personal Communications Industry Association . . . . .	6
Point Communications Corporation . . . . .	7
Puerto Rico Telephone Company . . . . .	7

## **ARRAYCOMM, INC. and SPATIAL COMMUNICATIONS, INC.**

**Interest:** Developers of "Spatial Division Multiple Access" technology.

**Power limits:**

- Notes that it previously filed comments supporting higher PCS base station power levels in a manner that differentiates peak directional power from average radiated power that would allow the use of smart antenna technology. (2-3)
- The ArrayComm/SCI comments were apparently ignored by the FCC, which never referenced the submission. (4)
- The revised rules, contrary to the stated purpose of the changes, do not facilitate the use of smart antennas (and may in fact discourage such use) since they continue to state power limits in terms of watts/channel instead of watts/Hertz (thus favoring narrow channels). (5)
- Believes the FCC should adopt its original power limit proposal, but at a minimum, should clarify that the limits apply to individual base station transmitters without regard to the number of such transmitters employed at each base station, the antenna element or elements to which each transmitter is connected, or the channels in which each transmitter is allowed to transmit. (6-7).

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## **ASSOCIATION FOR MAXIMUM SERVICE TELEVISION, INC.**

**Interest:** Trade association of broadcasting interests.

**Band plan:**

- The FCC's revised band plan places PCS systems (at increased power) immediately adjacent to the 1990-2110 MHz broadcast auxiliary allocation. (2-3)
- Requests the FCC to create a guardband in the 1970-1990 MHz band to protect mobile ENG operations from 1640 W EIRP PCS stations. (6-7)
- Attaches an engineering statement showing that if a guardband is not adopted, the entire 2 GHz ENG band would suffer harmful interference. (7)

- Due to the spur-of-the-moment response nature of mobile ENG, interservice coordination requirements are unlikely to be feasible, and therefore a guardband is the only workable protective measure. (7-8)
- The FCC has committed to reallocate 20 MHz of the broadcast ENG spectrum for MSS use. (3-4) ENG spectrum, however, is a poor choice for reallocation to MSS, since the allocation is widely used, highly important to news gathering, demand for ENG is increasing, OET originally rejected a reallocation of ENG spectrum for emerging technologies, and ENG cannot share with MSS. (4, 8-11)
- If the FCC nonetheless proceeds with reallocation of ENG spectrum for MSS, adequate new spectrum must be found *before* reallocation that is suitable for ENG, mobile point-of-view applications, inter-city relays, and STLs; spectrum that will permit average path lengths of 30.4 mi. (with a range up to 100 mi.); spectrum that will allow "building bounce" techniques; and spectrum capacity that is sufficient to support current NTSC, growth forecasts, and ATV operations. (11-13)
- Notes that alternative media, such as fiber optics, cannot be viewed as having potential for freeing other broadcast spectrum for ENG operations. (13-14)
- Equitable procedures for compensation with a timetable for a non-disruptive transition should be adopted in advance. (14-16)

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## ASSOCIATION OF INDEPENDENT DESIGNATED ENTITIES

**Interest:** Trade association of designated entities.

**License areas:**

- Wrote to Rand McNally to clarify the scope of the permissible use of MTAs/BTAs. Urges the FCC to place Rand McNally's clarifications in the record. (2-3)

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## CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION

**Interest:** Trade Association of cellular providers.

**Cellular carrier participation:**

- The FCC should revise its attribution and geographic overlap rules in accordance with its articulated goals by adopting CTIA's suggestion to use the *DoJ and FTC Horizontal*

*Merger Guidelines*, since the current regulations will disable cellular carriers from competing evenly with MTA rivals. (2-3) In other words, if the FCC's guess about spectrum requirements is right, the attribution and ownership rules are wrong since they do not allow cellular carriers sufficient spectrum to launch competitive services. (3)

- As the Besen and Burnett analysis attached to CTIA's earlier petition for reconsideration show, the 10 percent overlap can be increased to 40 percent and the 20 percent attribution can be increased to 30-35 percent without affecting consumer welfare. (4-6)
- The FCC should allow cellular carriers access to up to 15 MHz of new spectrum immediately by abolishing its January 1, 2000, date. At a minimum, the five-year headstart should be revised to allow access to the additional 5 MHz after there is actual PCS competition in an area. (6-7)
- The FCC should permit post-auction divestiture regardless of the degree of ownership overlap, since the end result will be interests in accordance with the rules. (7-8)

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### **CELSAT, INC.**

**Interest:** Proponent of Hybrid (Satellite/Terrestrial) PCS system.

**Band plan:**

- Urges the Commission to adopt a secondary allocation for satellite service in the PCS. (1)
- The FCC previously acknowledged the uniqueness of the international satellite allocation in this band, but reneged on its commitment at the eleventh hour. (2)
- CELSAT has proposed a domestic -- rather than international -- satellite service that could still be partially satisfied by allocating the spectrum at 1970-1990 MHz for domestic MSS on a secondary basis. (3-4)
- CELSAT's system is capable of sharing on an intra- or inter-service basis with PCS and incumbent microwave users. (4-5)
- Allocating spectrum for CELSAT's service would have tremendous spectrum efficiency benefits and allow the potential for universal coverage. (6-7)

## CINCINNATI BELL TELEPHONE COMPANY

**Interest:** Bell Operating Company seeking appeal of the cellular eligibility aspects of the PCS MO&O in the 6th Circuit.

**Other:**

- CBTC seeks a stay of the *Fifth Report and Order* in the Competitive Bidding proceeding as it relates to the PCS areas where Cincinnati SMSA L.P. (CBTC's cellular affiliate) provides cellular service.

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## COMCAST CORPORATION

**Interest:** Cable television, cellular, and alternative access provider.

**Cellular carrier participation:**

- Urges the FCC to adopt a PCS attribution standard that differentiates between equity interests and control by increasing the attribution standard to 20 percent, provided that no more than 5 percent voting interest is held, and increasing the attribution standard to 25 percent in publicly traded corporations, provided that no more than 15 percent of the voting interests are held. (1-2)
- Believes there is no difference between holding a 19.9 percent interest in a PCS or cellular licensee, and that the rules should be conformed. (3)
- The FCC has recognized the difference between equity and control in its designated entity rules and in adopting the use of a multiplier, implicitly recognizing the concept that interests short of control pose no threat to competition. (4-7)
- The FCC should modify its post-auction divestiture rules to permit divestiture of any interests, since it ultimately irrelevant if a licensee starts with a 6, 25, or 75 percent cellular interest. (7-9)
- The FCC should permit any entity certifying that it will divest down to the accepted limits to participate in the auctions and allow up to 6 months for divesting ownership interests in violation of the rules. (9)

## OMNIPPOINT CORPORATION

**Interest:** Pioneer's preference recipient and equipment manufacturer.

### **Unlicensed devices:**

- Believes that the LBT time window used for call set-up should be increased from 10 ms to 20 ms, since this will provide benefits to consumers with no adverse effects on other systems. (2)
- While there was debate on a number of unlicensed issues, debaters did not contemplate the end result that occurred -- halving the unlicensed PCS spectrum and eliminating all spectrum for wideband isochronous devices. (2)
- Believes its proposal will provide a compromise allowing for some interoperability between licensed and unlicensed PCS systems; allowing use of advanced vocoders from multiple vendors; 20 ms frame periods do not adversely affect other technologies; and allowing the use of more efficient vocoders with rates of 8 and 4 kpbs. (2-5)
- Urges the FCC to permit interested parties to demonstrate the ability of wideband systems and remain open to compromises on maximum bandwidth. (6)

### **PCS interference:**

- Notes that the emission limits for licensed PCS do not address out-of-band emissions, and proposes a measurement methodology based on the unlicensed PCS rules that differentiates between spurious and out-of-band emissions. (2)
  - In particular, notes that under the Section 24.238 emission limits, even a CW carrier in the middle of a 5 MHz license fails the  $-43 + 10\log_{10}(P)$  dB test, and any modulated carrier would certainly fail, and notes that spurious emissions near the carrier will not be detected with a resolution bandwidth of 1 MHz. (6)
  - Believes the optimal method for dealing with this issue is to utilize the rules adopted in Section 15.303 (unlicensed devices) for out-of-band emissions, the Section 24.238 rules for spurious emissions, and the modulation mask in Section 15.323(d). (6)
  - Adopting Omnipoint's suggestions will facilitate development of interoperable devices and provide superior measurements. (6-8)
-



## PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION

**Interest:** Trade association of personal communications industry members.

**Relocation:**

- Proposes that the FCC should address a cost-sharing plan for relocation of incumbent microwave users by PCS licensees to facilitate rapid PCS deployment, while noting that its cost-sharing plan will not delay PCS or the auctions. (1)
  - Due to the allocation plan adopted by the FCC, the current allocation scheme for PCS, the inconsistent channelization of microwave systems, and differences in between coordinated- and market area-licensed systems, numerous situations will result where more than one PCS licensee benefits from a relocation. (2-5)
  - Proposes an industry cost-sharing plan that would require PCS licensees benefitting from a relocation to reimburse the PCS licensee originally relocating the system under the following guidelines: (5-6)
    - ▶ PCS licensees would only be under an obligation to cost-share if the PCS licensee's operations would have caused interference under 10-F standards.
    - ▶ Reimbursement from PCS licensees would be limited to a *pro rata* share of relocation costs not including amounts paid in excess of costs required for providing comparable alternative facilities; premiums for voluntary relocation; or any interest or recognition of the time value of money.
  - Urges the Commission to consider a number of options for enforcing a cost-sharing plan, including adopting rules generally requiring PCS licensee participation in a cost sharing plan with specific requirements; adopting rules generally requiring PCS licensee participation with basic policies for industry to follow; adopting a general mandate for participation by PCS licensees in a "Licensed PCS Cost Sharing Master Agreement" setting forth the obligations of licensees in a legally binding contract; or, establishing a Section 332 frequency coordinator to manage the cost sharing plan among PCS licensees. (7)
-

## **POINT COMMUNICATIONS COMPANY**

**Interest:** Small cellular carrier.

**Service areas:**

- Believes that creating two different sized licensing areas will handicap designated entities and small businesses from the start, since coverage is one of the most important distinguishing characteristics of competitive mobile services. (1-2)
- While networking among BTA licensees is possible in theory, PCC's experience as a small cellular carrier has shown that such networking creates additional costs and hassles. (2-3)
- The only reasonable solution is to equalize market areas by employing the Department of Commerce's "BEA Economic Areas," which has the additional benefit of eliminating peculiarities in the MTA/BTA scheme that result in the West Coast being covered by only four MTAs. (3-4)

**Designated entities:**

- While PCC applauds most of the changes adopted by the FCC, one adjustment -- varying the entrepreneurial block from market to market -- would greatly facilitate small business entry, since it would create "big brother" partners for small businesses on the same frequency block. (5)

**Technical standards:**

- The FCC should require ONA to be employed for PCS networks, since such action would guarantee competition among equipment providers to reduce the costs of networks. (4-5)

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## **PUERTO RICO TELEPHONE COMPANY**

**Interest:** Landline local exchange telephone company operating in Puerto Rico.

**Service areas:**

- Objects to the division of Puerto Rico into two BTAs, since the original BTA was based on the natural flow of commerce; a single Puerto Rican BTA would be relatively small in any event; the central mountain range no longer effectively divides the

territory into two regions; and most other services and facilities in Puerto Rico are not divided into two separate areas. (1-8)

- Retaining a single BTA for Puerto Rico will facilitate the provision of low-cost service to the public by allowing the realization of operating efficiencies. (9-11)